

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES OF AMERICA)	
)	CRIMINAL ACTION FILE
v.)	
)	NO. 1:14-cr-192-ODE/AJB
FREDERICK JENKINS and)	
WILLIE JENKINS,)	
)	
Defendants.)	

**UNITED STATES MAGISTRATE JUDGE’S ORDER
AND FINAL REPORT AND RECOMMENDATION**

Before the Court are motions to suppress statements filed by each Defendant, [Docs. 39 (Frederick Jenkins), 43 (Willie Jenkins)], and Willie Jenkins’ motion to sever defendants. [Doc. 44]. For the following reasons, the undersigned **RECOMMENDS** that the motions be **DENIED**.

In their motions to suppress, Defendants contend that when they were interviewed by law enforcement agents, they were effectively in custody, which custody was not supported by probable cause, and that therefore they were entitled to *Miranda* warnings, which they did not receive, and their statements were not voluntary. [Docs. 39, 43]. The Court held evidentiary hearings on the motions, [Docs. 56, 58]. Instead of filing post-evidentiary hearing briefs, *see* Dkt. Entry 01/07/15, each Defendant filed a nearly identical pleading conceding that they were not

in custody when interviewed and that their statements were voluntary. [Docs. 60, 62].¹ As a result, the undersigned **RECOMMENDS** that the motions to suppress statements, [Docs. 39, 43], be **DENIED**.

Also, Willie Jenkins filed a motion to sever his trial from his brother on *Bruton v. United States*, 391 U.S. 123 (1968), grounds. [Doc. 44]. At the pretrial conference, the Court directed that Defendants examine the redactions proposed by the government, and if dissatisfied with those redactions, file a supplemental motion under *Bruton* by August 29, 2014. [See Doc. 46]. No such motion was filed. [See Dkt.]. The Court therefore concludes that Willie Jenkins was satisfied with the government's proposed redactions. Accordingly, the undersigned **RECOMMENDS** that Willie Jenkins' motion to sever, [Doc. 44], be **DENIED**.

Conclusion

For the reasons stated above, it is **RECOMMENDED** that Defendants' motions to suppress statements and to sever, [Docs. 39, 43, 44], be **DENIED**.

¹ Each Defendant reserved the ability to cross-examine the interviewing agents on the accuracy of the statements as reported by the agents. [Docs. 60 at 1-2, 62 at 1-2].

The Court has now ruled on all of the motions referred by the District Court, and has not been advised by the parties of any impediment to the scheduling of trial. Accordingly, this case is **CERTIFIED READY FOR TRIAL**.

IT IS SO RECOMMENDED AND CERTIFIED, this the 28th day of January, 2015.



ALAN J. BAVERMAN
UNITED STATES MAGISTRATE JUDGE